



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 10

1200 Sixth Avenue, Suite 900
Seattle, Washington 98101-3140

December 11, 2009

Reply to: OCE-164

Ms. Susan Smith
Compliance Manager
R.H. Smith Distribution
315 East Wine Road
Grandview, Washington 98930

Re: Underground Storage Tank (UST) Program, "Expedited Enforcement Compliance Order and Settlement Agreement" No. 05601 from the October 13, 2009, UST facility inspection of Smitty's Conoco, 102 East Toppenish Avenue, Toppenish, Washington (EPA ID No. 4260087).

Dear Ms. Smith:

The information that I received on December 1, 2009, satisfies the terms stated in Expedited Enforcement Compliance Order and Settlement Agreement (otherwise known as "Field Citation") No. 5601, which was issued on an inspection conducted at your facility on October 13, 2009. Therefore, EPA has granted final approval of this field citation. I have enclosed with this letter a copy of the approved field citation for your records. Thank you for taking the necessary steps to bring your facility into compliance with the federal UST regulations.

Please note that if we should find your facility out of compliance with the previously cited requirements during a future inspection, this expedited form of enforcement will not be available a second time. EPA will consider using a more formal enforcement mechanism with much more substantial penalties in the case of a repeat violation. Maintaining compliance with these requirements is critical.

If you have any questions in reference to this inspection, please call me at (206) 553-4012.

Sincerely,

Philip A. Nenninger
UST Inspector

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
SEATTLE, WASHINGTON

EXPEDITED ENFORCEMENT
COMPLIANCE ORDER AND SETTLEMENT AGREEMENT

PART I: COMPLIANCE ORDER

Compliance Order No. 05601

On 10/13/09 Time 11:59
(date of violation) (a.m. or p.m.)

At Sn. Hys Conoco
102 E Toppenish Ave
Toppenish, WA 98548
(Name of facility)
(Address of facility)

Name of Owner, Operator or
On-site Representative Sue Smith
(circle one)
Owner Address 315 E. Wine Country Rd
Grandview, WA 98530

State ID or Facility License/permit Number 4260087

An authorized representative of the United States Environmental Protection Agency (EPA) inspected this facility to determine compliance with underground storage tank regulations promulgated under Subtitle I of the Resource Conservation and Recovery Act of 1976 (42 U.S.C. S6912 et seq.) During this inspection, the following violations of underground storage tank regulations were found, with corresponding penalty amounts.

1. 40 CFR 280.70(a) Penalty \$ 300
Nature of Violation Failure to perform release detection on
temp. closed tank
2. 40 CFR _____ Penalty \$ _____
Nature of Violation _____
3. 40 CFR _____ Penalty \$ _____
Nature of Violation _____
4. 40 CFR _____ Penalty \$ _____
Nature of Violation _____
5. 40 CFR _____ Penalty \$ _____
Nature of Violation _____

The owner or operator of the above facility is hereby ordered to correct the violations and pay the penalties described above.

This Compliance Order is not an adjudicatory proceeding under 40 CFR Part 22, the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits, but is issued solely with reference to Settlement Agreement in Part II of this form. If the Settlement Agreement in Part II is not returned in correct form by the owner or operator within 30 days of the date of the signature below by the Authorized Representative of EPA, this Compliance Order is hereby withdrawn, without prejudice to EPA's ability to file additional enforcement actions for the above or any other violations.

I have personally observed the above violations and find the owner or operator in violation of the above-referenced underground storage tank regulations.

[Signature] Date: 10/13/09
(Signature of Authorized Representative of EPA)

I hereby acknowledge receipt of this Compliance Order and Settlement Agreement.

Susan K. Smith Date: 10/13/09
(Signature of Owner, Operator or On-site Representative)

PART II: SETTLEMENT AGREEMENT

The United States Environmental Protection Agency (EPA) offers this Settlement Agreement under its expedited enforcement procedures in order to settle the violations found in the Compliance Order in Part I of this form subject to the following terms and conditions:

The Owner or Operator signing below certifies, under civil and criminal penalties for making a false submission to the United States Government, that Owner or Operator has corrected the violation(s) and enclosed a certified check for \$ 300 in payment of the full penalty amount, as described in the Compliance Order.

Upon EPA final approval of this Settlement Agreement, EPA will take no further action against the Owner or Operator for the violations described in the Compliance Order. EPA does not waive any enforcement action by EPA, the state where the facility is located or any local agencies for any other past, present or future violations under any other statute not described in the Compliance Order.

Also, upon EPA final approval of this Settlement Agreement, the Owner or Operator waives the opportunity for a public hearing pursuant to Section 9006 of the Resource Conservation and Recovery Act.

This Settlement Agreement is binding on the EPA and the Owner or Operator signing below.

The Owner or Operator signing below waives any objections to EPA's jurisdiction with respect to the Compliance Order and this Settlement Agreement, and consents to EPA's final approval of this Settlement Agreement without further notice.

This Settlement Agreement is effective upon EPA's final approval below. Upon final approval, EPA shall mail a copy of the approved Settlement Agreement to the Owner or Operator signing below.

Final approval of the Settlement Agreement is in the sole discretion of the Regional Administrator, Region 10, EPA, or authorized delegate.

SIGNATURE BY OWNER OR OPERATOR:

Name (print) Susan K. Smith
Title (print) Compliance Mgr, R.H. Smith
DIST.
Signature Susan K. Smith Date: 11-9-09

FINAL APPROVAL BY EPA:

Name (print) Philip Venninger
Title (print) UST Inspector
Signature [Signature] Date: 12/2/09

→ Either continue monthly release detection or remove fuel to less than 1" in each tank. Send evidence to EPA